

REMARKS

The Specification has been amended to correct minor informalities. Specifically, Paragraph [0045] has been amended to specifically limit the invention to tangible embodiments.

Claims 1, 21, and 31 are currently amended to better clarify the present invention, without acquiescence in cited basis for rejection or prejudice to pursue in a related application. Claims 41 and 42 are new. Claims 3-20, 22-30, and 32-40 remain unchanged. No new matter has been added.

§ 101 REJECTION

Claims 31-40 stand rejected under 35 U.S.C. § 101 as the subject matter of the claimed invention not being limited to tangible embodiments.

The Specification is currently amended to limit the claimed invention to exclude transmission media.

Claim 31 is also amended to recite the same terminology as defined in the Specification. Applicants respectfully submit that the amended claim 31 and claims 32-40, which depends directly or indirectly from claim 31, therefore exclude transmission media and thus are believed to have overcome the rejection under 35 U.S.C. § 101.

§ 102 REJECTIONS

Claims 1, 3 - 7, 12 - 13, 15, 19, 21 - 24, 28 - 29, 31 - 34, and 38 - 40 stand rejected under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent Number 6,907,499 issued on June 14, 2005 to Herbst et al. (hereinafter *Herbst*.) Applicants respectfully traverse. Applicants note that “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP 2131.

I. For claim 1, the Office Action cites to Herbst and concludes that *Herbst* discloses all of the claimed limitations of claim 1. Applicants respectfully traverse.

A. The Office Action recites **col. 8, l. 17 - col. 9, l. 44** and **col. 13, ll. 11-65** of Herbst and concludes that the cited passages disclose the claimed limitation of “tracking a total number of the identified first and additional data blocks *as using the ROSI algorithm which determines the last data sector to which data is to be written*” of claim 1. Applicants respectfully disagree.

Applicants first respectfully note that claim 1 of the present invention does not contain the above recited language. Instead, claim 1 recites “tracking a total number of the identified first and additional data blocks” but does not contain the italicized language. Thus, Applicants respectfully request further clarification as to the exact claimed limitations which the Office Action rejects.

B. Applicants further respectfully submit that Herbst does not disclose, teach, or suggest all of the claimed limitations of claim 1. Claim 1 recites at least the following limitations:

identifying, in a first storage location, a first data block to be written into a second storage location, *the first data block having a first data block address and being associated with a first destination address;*

identifying, in the first storage location, an additional data block to be written into the second storage location, *the additional data block having a second data block address and being associated with a second destination address;*

writing the identified first and additional data blocks to the second storage location according to the first and second destination addresses with a write operation, in which said first and additional data addresses constitute consecutive addresses and the first and additional destination addresses constitute consecutive addresses.

Herbst specifically discloses several embodiments of the “handle write in progress” (324) upon the host’s receipt of a new command while a disc write is in progress. **Fig. 7** together with the aforementioned pertinent passages disclose a method of employing the ROSI algorithm to determine the optimal point in the disc write operation at which a seek should be made to the track containing the first sector of data associated with the subsequently received read command. **Col. 13, ll. 11-65**. The optimal point, which is also referred to as the “last sector to which data is to be written” or “calculated sector” as shown in step 706 of **Fig. 7**, is determined by the latency amount which is, according to U.S. Patent 6,339,811 issued Jan. 15, 2002 to Gaertner et al. (hereinafter Gaertner) that is also cited in this Office Action and is incorporated by reference in Herbst, calculated by subtracting the “seek rotation amount” from the “access rotation amount.”

Col. 2, ll. 37-48. Moreover, Herbst discloses a generic write coalescing method that is merely concerned with data blocks having contiguous logical block addresses. Col. 2, ll. 25-40. This is not, however, the claimed limitations of claim 1.

Applicants respectfully submit that Herbst does not disclose, teach, or suggest that the data blocks are associated with consecutive second destination addresses. Applicants further respectfully submit that Herbst is also absolutely silent on writing the data blocks to the second storage location according to the destination addresses that are associated with respective data blocks. In contrast, the data blocks to be written in Herbst only have the logical block addresses but are not associated with any other addresses such as the destination addresses as claimed in claim 1.

As such, Herbst does not disclose at least the aforementioned claimed limitations of claim 1 and thus cannot be used to preclude the patentability of claim 1. Therefore, Applicants Claim 1 and its dependent claims are allowable over Herbst. Claim 1 is currently amended to clarify the present invention.

II. Claims 21 and 31 constitute the system and computer program product claims implementing the method of claim 1. Thus, Applicants respectfully submit that claims 21, 31, and their respective dependent claims are also allowable over Herbst for at least the foregoing reasons. Claims 21 and 31 are currently amended to clarify the present invention.

§ 103 REJECTIONS

I. Claims 8 - 11, 14, 16 - 18, 20, 25 - 27, and 30 stand rejected as being unpatentable over Herbst in view of Gaertner under 35 U.S.C. § 103(a). Applicants respectfully traverse.

Claims 8 - 11, 14, 16 - 18, and 20 depend directly or indirectly from claim 1. Claims 25-27 and 30 depend directly or indirectly from claim 21. As discussed above in the § 102 Rejections section, Herbst does not disclose, teach, or suggest all the claimed limitations of claims 1 and 21. Moreover, the Office Action does not state that Gaertner cure the deficiency of

claims 1 and 21. Therefore, Herbst and Gaertner, either alone or taken together, do not disclose, teach, or suggest all of the claimed limitations of claims 8 - 11, 14, 16 - 18, 20, 25 - 27, and 30. As such, Applicants respectfully submit that these claims are allowable over Herbst and Gaertner.

CONCLUSION

On the basis of the above remarks, all claims are believed to be allowable. If the Examiner has any questions or comments, the Examiner is respectfully requested to contact the undersigned at the number listed below.

The Commissioner is authorized to charge any fees due in connection with the filing of this document to Bingham McCutchen's Deposit Account No. **50-2518**, referencing billing number **7030762001**. The Commissioner is authorized to credit any overpayment or to charge any underpayment to Bingham McCutchen's Deposit Account No. **50-2518**, referencing billing number **7030762001**.

Respectfully submitted,
Bingham McCutchen LLP

Dated: September 20, 2006

By: 

Erich C. Tzou
Registration No. 56,927

Bingham McCutchen LLP
Three Embarcadero Center
San Francisco, CA 94111
Telephone: (650) 849-4962
Telefax: (650) 849-4800